SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Wednesday, April 30, 1997 No. 71

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No 7/LD/97 Dated the 30th April, 1997

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 24th day of April, 1997 is hereby published for general information:-

THE SIKKIM NON-BIODEGRADABLE GARBAGE (CONTROL) ACT, 1997

(ACT NO. 7 OF 1997)

ARRANGEMENT OF SECTIONS

SECTIONS:

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition to throw non-biodegradable garbage in public places drains and sewage.
4. Provisions for placement of receptacles and places for deposit of non-biodegradable garbage.
5. Duty of owners and occupiers to collect and deposit non-biodegradable garbage etc.
6. Power of local authority for removal of non-biodegradable garbage.
7. Studies, research and support programmes.
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SCHEDULE

THE SIKKIM NON-BIODEGRADABLE GARBAGE (CONTROL) ACT, 1997

(ACT NO. 7 OF 1997)

AN

ACT

to prevent throwing or depositing non-biodegradable garbage in public drains, roads and open places open to public view in the State of Sikkim and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Forty-eighth Year of the Republic of India, as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Non-biodegradable Garbage (Control) ACT, 1997.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification, in the Official Gazette appoint and different dates may be appointed for different areas.

Definition.

2. In this Act, unless the context otherwise requires—

(a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;

(b) "house gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by persons employed in the clearing thereof or in the removal of such matter therefrom;

(c) "local authority" means a Municipal Corporation, a Municipal Council, a Nagar Panchayat, a Cantonment Board, a Zilla Parishad, a Panchayat Samiti or a Gram Panchayat constituted, or continued, under any law for the time being in force;

(d) "market" includes any place where persons assemble for exposing for sale, meat, fish, fruits, vegetables, food, or any other articles for human use or consumption with or without the consent of the owner of such place, notwithstanding that there may be no common regulation for the concourse of the buyers and the sellers and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other persons;

(e) "non-biodegradable garbage" means the waste garbage or material which is not bio-degradable garbadge and includes polythene, nylor, and other plastic goods such as Polyvinyle Chloride (P.V.C.), Polypropylene and Polystyrene, which are not capable of being destroyed by an action of living beings and are more specifically included in the Schedule to this Act;

(f) "occupier" includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(b) an owner in occupation of or otherwise using his land or building;

(c) a rent free tenant of any land or building; and

(d) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(g) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant;

(h) "place" means any land or building or part of a building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;

(i) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised, under the provisions of the Environment (Protection) Act, 1986; and

(l) "public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, house-gully or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass;

(m) "State Government" means the Government of Sikkim.

Prohibition to throw non-degradable garbage in public drains and sewage.

3. (1) No person by himself or through another, shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any non-biodegradable garbage or any bio-degradable bag or container likely to-

(a) injure the drainage and sewage system;

(b) interfere with the free flow or affect the treatment and disposal of drain and sewage contents and

(c) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person shall knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such sagfeguards as may be prescribed, any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view, unless—

(a) the garbage is placed in a garbage receptacle; or

(b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of the garbage.

Provision for placement of receptacles and places for deposit of non-biodegradable garbage.

4. It shall be the duty of the local authority, or any officer authorised by it, to—

(a) place or provide or place in proper and convenient situation public receptacle , depots or places for temporary deposit or collection of non-biodegradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage;

(c) provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and

(d) arrange for recycling of the non-biodegradable garbage collected under this Act.

Duty of owners and occupiers to collect and deposit non - biodegradable garbage etc.

5. It shall be the duty of the owners and occupiers of all lands and buildings—

(a) to collect or to cause to be collected from their respective land and buildings the non-biodegradable garbage and to deposit, or cause to be deposited, in public receptacles, deposits or places provided for temporary deposit or collection of the non-biodegradable a garbage by the local authority in the area;

(b) to provide separate receptacles or dustbins, other than those kept and maintained for deposit of bio-degradable garbage of the type and in the manner prescribed by the locat authority or its officers for collection therein of all the non-biodegradable waste from such land building and to keep such receptacles dustbins in good condition and repair.

Power of local authority for removal of non-bio-degradable garbage.

6. The local authority may, by notice in writing, require the owner or occupier or part-owner, of person claiming to be the owner or part-owner of any land or building, which has become a place of unauthorised stacking or deposit of non-biodegradable garbage and is likely to occasion a nuisance, remove or cause to be removed the said garbage so stacked or collected; and if, in its opinion,such stacking

or collection of non-biodegradable waste is likely to injure the drainage and sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps the cost of such persons as it may think neces ary.

Studies research support programme.

7. The State Government may undertake—

(a) undertake studies to determine the composition of bio-degradable or non-biodegradable garbage;

(b) establish measures to conduct or support research or progr mme to encourage source reduction re-use and re-cycling of waste;

(c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes.

(d) encourage local authorit es in the State to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pickup;

(e) undertake and encourage local authorities and other persons to implement policies to recycle waste materials, to promote energy concservation and to purchase products made from recyclable materials;

(f) conduct and support research on recycling including information on operating recycling business and market information on recyclables;

(g) conduct or support research on waste management and recycling for use in educating the public, local authorities, institutions and industry; and

(h) impose requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material, degradability and re-cyclability.

Penalties.

8. (1) Whoever is guilty of any act or intentional omission in contravention of any of the provision of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punishable with double the penalty provided for the latter offence.

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

Offences by Companies.

9. (1) If the person committing any offence punishable under this Act is a Company, every person who at the time of the commission of the offence, was in-charge of, and responsible to the Company for the conduct of the the business of the Company as well as the Company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment provided in this Act, if he proves that the offence was commited without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where an offenc under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guility of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purpose of this section.-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

Offences to be tried summarily.

10. All offences under the Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of sections 262 to 265 (both inclusive) of the Code of the Criminal Procedure, 1973 shall, as far as may be, apply to Such trials.

Compounding of offences.

11. (1) Any offence punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by Notification in the Official Gazette, by the State Government in this behalf, on payment, for credit to the State Government, of such sum as such officer may specify.

(2) Where any offence has been compounded under sub-section (1), no proceeding shall be taken against the offender, in respect of the offence as compounded, and the offender, if in custody, shall be discharged.

Directions by the State Government.

12. All Local Authorities shall carry out such directions as may be issued to it, from time to time, by the State Government for the effective administration of this Act.

Power to amend Schedule.

13. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the Public Analyst, by notification in the Official Gazette, add to, or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to be amended accordingly.

(2) Every notification under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

Power to delegate

14. The State Government may, by order published in the Official Gazette, direct that any power exercisable by it under this act (not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority, as may be specified therein.

Protection of action taken in good faith.

15. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officer or other employees of the State Government or of the Local authority or any other person authorised by the State Government, for any thing which is in good faith done or intended to be done under this Act or the rules made thereunder.

Other laws not affected.

16. The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

17. (1) The State Government may subject to the condition of previous publication, make rules for the purpose of carrying out of the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid as soon as may be, after it is made before the State Legislative Assembly, while it is in session, for a total period of fourteen days which may comprise in one session or in two or more successive sessions, and if, before the expiry of the sessions in which it is so laid or the successive sessions aforesaid the Assembly agrees, in making any modification in the rule or decides that the rule should not be made, the rule shall thereafter have the effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE

(See section 2 (e)

NON-BIODEGRADABLE GARBAGE

1. Polythylene
2. Nylon
3. Polyvinyl Chloride (P.V.C.)
4. Poly-propylene
5. Poly--styrene.

By Order of the Governor,

B. R. Pradhan
Secretary to the Government of Sikkim,
Law Department.

(F.No. 16 (294) LD/97)

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Wednesday, 7th October, 1998 No. 219

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 5/LD/98 Dated the 5th October, 1998

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 20th day of September, 1998 is hereby published for general information:-

THE SIKKIM NON-BIODEGRADABLE GARBAGE (CONTROL AMENDMENT) ACT, 1998

(ACT NO. 5 OF 1998)

AN

ACT

to amend the Sikkim Non-Biodegradable Garbage (Control) Act, 1997.
Be it enacted by the Legislature of Sikkim in the Forty-ninth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Sikkim Non-Biodegradable Garbage (Control) Amendment Act, 1998

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In clause (c) of section 2 of the Sikkim Non-Biodegradable Garbage (Control) Act, 1997, after the word "force", the words "or in the absence of any such authority, the Urban Development and Housing Department, Government of Sikkim"; shall be added

By Order of the Governor,

T.D. RINZING
Secretary to the Govt. of Sikkim,
Law Department.

F. No. 16(292)LD/97

PRINTED AT SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Friday, 30th March, 2001 | No. 70

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 5/LD/2001 **Dated 30.3.2001**

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 24th day of March, 2001 is, hereby published for general information :-

THE SIKKIM NON-BIODEGRADABLE GARBAGE (CONTROL) AMENDMENT ACT, 2001

ACT NO. 5 OF 2001

AN

ACT

further to amend the Sikkim Non-Biodegradable (Control) Act, 1997.

Be it enacted by the legislature of Sikkim in the Fifty-second Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (i) This Act may be called the Sikkim Non-Biodegradable Garbage (Control) (Amendment) Act, 2001.
(ii) It extends to the whole of Sikkim.
(iii) It shall come into force at once.

Amendment of section 8.

2. In the Sikkim Non-Biodegradable Garbage (Control) Act, 1997 in section 8, for sub-section (1) the following sub-section shall be substituted, namely :-

(1) "Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act or of any rules, notification or order made or issued under this Act, shall be punishable with imprisionment for a term which shall not be less than one month and which may extend to six months and shall also be liable to fine which shall not be less than rupees five thousand".

By Order of the Governor.

T. D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
(F. No. 16(82)LD/2001)

Printed at Sikkim Government Press. Gangtok.